

REMARKS

In the Office Action dated February 26, 2008, the Examiner objected to the drawings under 37 CFR § 1.83(a) for not showing each and every feature of the invention specified in the claims; rejected claims 31-60 under 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention; rejected claims 31, 32, 35-37, 42, 44-51, 53, 54, 56, and 59 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,593,717 to Levasseur ("Levasseur"); rejected claims 31-33, 35-37, 40, 42-45, 48-51, and 54-60 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,921,955 to Haddad ("Haddad"); and rejected claims 31-39, 41, 44-47, 50-52, 54, 56, 58, and 60 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,821,996 to Bellotti et al. ("Bellotti").

By this Reply, Applicant has canceled claims 1-60 and has added new claims 61-79. Accordingly, claims 61-79 are currently pending in this application. No new matter has been added by this Reply.

OBJECTION UNDER 37 CFR § 1.83(a)

In the Office Action, the Examiner objected to the drawings under 37 CFR § 1.83(a) for not showing each and every feature of the invention specified in the claims. The Examiner stated that "the auxiliary element having corresponding notches designed to receive said locating blocks of the valve body (claim 57) must be shown or the feature(s) cancelled from the claim(s)." (Office Action at 2.)

Applicant submits that the Examiner's objection to the drawings has been rendered moot by Applicant's cancellation of claims 31-60.

Applicant also notes that the Examiner's objection to the drawings based on canceled claim 57 was improper. The detailed description at page 8, lines 31-33, states that "[a]s can be seen in FIG. 7, the auxiliary element 8 has corresponding notch[e]s 26 designed to receive the said locating blocks 25 of the valve body 2" (emphasis added).

Thus, for at least these reasons, Applicant respectfully requests that the Examiner withdraw the objection to the drawings.

REJECTION UNDER § 112

The Examiner also rejected claims 31-60 under 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant submits that the Examiner's rejection under 35 U.S.C. § 112 has been rendered moot by Applicant's cancellation of claims 31-60.

Applicant respectfully submits that claims 61-79 are allowable and requests that the Examiner withdraw the rejection under 35 U.S.C. § 112.

REJECTION UNDER § 102(b)

The Examiner rejected claims 31, 32, 35-37, 42, 44-51, 53, 54, 56, and 59 under 35 U.S.C. § 102(b) as being anticipated by Levasseur. Applicant respectfully disagrees.

Applicant submits that the rejection of claims 31, 32, 35-37, 42, 44-51, 53, 54, 56, and 59 under 35 U.S.C. § 102(b) has been rendered moot by Applicant's cancellation of claims 31-60. To the extent the rejection of these canceled claims based on Levasseur relate to new claims 61-79, Applicant submits that Levasseur does not anticipate claims 61-79 at least because Levasseur does not disclose each and every element of claims 61-79.

In order to properly anticipate Applicant's claims under 35 U.S.C. § 102, a single prior art reference must disclose each and every element of the claim at issue, either expressly or under principles of inherency. Further, "[t]he identical invention must be shown in as complete detail as is contained in the. . . claim." See M.P.E.P. § 2131. Also, "[t]he elements must be arranged as required by the claim." Id.

Levasseur discloses "a four-way valve, incorporating a fail-safe pivotal valve stem, a finger knob indicating simultaneously both closed and opened ports, and three connector fittings oriented in a Y configuration about the centrally located valve stem body for connection with various types of tubing or catheters. . . . Detent means are provided to lock the valve stem in a selected position and prevent inadvertent opening or closing of a selected port or ports." (Abstract.) Levasseur further discloses that "the detent mechanism includes a number of recesses 70 which correspond to the ports 12, 14 and 16 and other various positions 54, 55, 56, 57, 58, 59 and 60 about flange 35, and diametrically extending rod 72 is arranged for movement within slot 76 of the valve stem finger knob 41. The openings of slot 76 are arranged to register with recesses 70 such that rod 72 will extend into opposed recesses once the desired position is selected. Coincident with each recess 70 is a vertical slot which corresponds to each of the above-noted positions 54, 55, 56, 57, 58, 59 and 60 and ports 12, 14 and 16. These slots divide the housing into ten (10) resilient parts which flex outwardly when engaged by rod 72 and return to a normal position when rod 72 registers with a recess 70." (Col. 3, ll. 45-59.) Also, the valve handle of Levasseur may be turned "in either direction." (Col. 3, line 31.)

Thus, Levasseur discloses a bi-directional detent mechanism where “openings of slot 76 are arranged to register with recesses 70 such that rod 72 will extend into opposed recesses once the desired position is selected.” Levasseur, however, does not disclose “positioning means . . . wherein reaching one of said predetermined operating positions is indicated by a snap fitting of a catch into a corresponding notch, said positioning means being configured to permit a relative rotation of said selector with respect to said valve body in only one direction” as recited in independent claim 61 (emphasis added). Because Levasseur does not disclose “positioning means . . . wherein reaching one of said predetermined operating positions is indicated by a snap fitting of a catch into a corresponding notch, said positioning means being configured to permit a relative rotation of said selector with respect to said valve body in only one direction,” as recited in independent claim 61, Levasseur does not disclose each and every element of independent claim 61.

For at least the aforementioned reasons, independent claim 61 is allowable over Levasseur. Moreover, new dependent claims 62-79 are allowable over Levasseur at least due to their dependence from allowable independent claim 61.

The Examiner also rejected claims 31-33, 35-37, 40, 42-45, 48-51, and 54-60 under 35 U.S.C. § 102(b) as being anticipated by Haddad. Applicant respectfully disagrees.

Applicant submits that the rejection of claims 31-33, 35-37, 40, 42-45, 48-51, and 54-60 under 35 U.S.C. § 102(b) has been rendered moot by Applicant’s cancellation of claims 31-60. To the extent the rejection of these canceled claims based on Haddad relate to new claims 61-79, Applicant submits that Haddad does not anticipate claims

61-79 at least because Haddad does not disclose each and every element of claims 61-79.

Haddad discloses a valve positioning assembly with a "lower disc 38 [that] has an axial opening 41 disposed centrally thereof through which the stem 26 passes and contains a pair of circumferentially spaced, upwardly extending detents 44 disposed on opposite sides of the stem 26. Detents 44 are preferably in the form of truncated wedges. Lower disc 38 also includes an upstanding tang 49 extending upwardly from a peripheral portion thereof. The upper disc 42 contains a plurality of detents 46 spaced equally about the circumference of a circle. Detents 46 are disposed so that two of these detents simultaneously engage detents 44 formed on the lower disc." (Col. 3, line 63 - Col. 4, line 6.)

Haddad discloses detents that "are preferably in the form of truncated wedges." (Col. 3, ll. 67-68.) As the valve handle of Haddad is rotated, "the upper detents move against the sides of the lower detents. The lower detents being fixed to deflect the upper disc causing the upper detents to move up the sides of the lower detents. The upper disc exerts an increasing force as it is deflected. When sufficient force is applied to the valve handle to overcome this force and the internal fluid forces acting on the valve disc, the stem can be rotated. When a desired valve position is reached, the detents again engage, thus locking the valve in position." (Col. 4, ll. 51-60.)

Unlike the frictional type fitting of Haddad independent claim 61 recites "positioning means . . . wherein reaching one of said predetermined operating positions is indicated by a snap fitting of a catch into a corresponding notch, said positioning means being configured to permit a relative rotation of said selector with respect to said

valve body in only one direction" (emphasis added). Thus, because Haddad does not disclose "positioning means . . . wherein reaching one of said predetermined operating positions is indicated by a snap fitting of a catch into a corresponding notch, said positioning means being configured to permit a relative rotation of said selector with respect to said valve body in only one direction," as recited in independent claim 61 (emphasis added), Haddad does not disclose each and every element of independent claim 61.

Furthermore, Haddad does not disclose an "auxiliary element having a surface facing said selector, said surface having predetermined visual representations, said representations including at least one of graphic symbols, alphanumeric indications, or colors relating to the paths in which the fluid flow is shut off or permitted between said accesses, wherein different relative positions of said selector with respect to said valve body provide visual access through said aperture to corresponding visual representations of said surface," as recited in independent claim 61 (emphasis added).

Haddad discloses that "[d]etents 46 are disposed so that two of these detents simultaneously engage detents 44 formed on the lower disc." (Col. 3, line 63 - Col. 4, line 6.) [T]he inner surfaces of the detents 46 in the upper disc 42 engage the outer surfaces of the detents 44 in the lower disc 38." (Col. 4, ll. 42-44.)

The Examiner contends that "Haddad, Jr. discloses the auxiliary element being placed on the surface of the valve body with the surface of the valve body facing the selector wherein the auxiliary element has graphic symbols (raised block portions 44 and limit stop 49 being visible from above the valve assembly wherein the position of the limit stop relative to the end portions 59a, 59b of the aperture 59 of the selector

indicates the positioning of the positioning means within the valve body)." (Office Action at 9.) Applicant disagrees.

The word "graphic" is defined in Merriam Webster's Online Dictionary¹ as meaning: "of or relating to the pictorial arts;" "of, relating to, or involving such; reproductive methods as those of engraving, etching, lithography, photography, serigraphy, and woodcut;" "of or relating to the art of printing"; "formed by writing, drawing, or engraving;" or "of or relating to the written or printed word or the symbols or devices used in writing or printing to represent sound or convey meaning." Applicant submits that "raised block portions 44 and limit stop 49 being visible from above the valve assembly" are not "graphic symbols," as recited in independent claim 61.

Thus, Haddad does not disclose an "auxiliary element having a surface facing said selector, said surface having predetermined visual representations, said representations including at least one of graphic symbols, alphanumeric indications, or colors relating to the paths in which the fluid flow is shut off or permitted between said accesses, wherein different relative positions of said selector with respect to said valve body provide visual access through said aperture to corresponding visual representations of said surface," as recited in independent claim 61 (emphasis added).

For at least the aforementioned reasons, independent claim 61 is allowable over Haddad. Moreover, new dependent claims 62-79 are allowable over Haddad at least due to their dependence from allowable independent claim 61.

¹ Merriam Websters OnLine, <http://www.merriam-webster.com/dictionary/graphic>.

The Examiner also rejected claims 31-39, 41, 44-47, 50-52, 54, 56, 58, and 60 under 35 U.S.C. § 102(b) as being anticipated by Bellotti. Applicant respectfully disagrees.

Applicant submits that the rejection of claims 31-39, 41, 44-47, 50-52, 54, 56, 58, and 60 under 35 U.S.C. § 102(b) has been rendered moot by Applicant's cancellation of claims 31-60. To the extent the rejection of these canceled claims based on Bellotti relate to new claims 61-79, Applicant submits that Bellotti does not anticipate claims 61-79 at least because Bellotti does not disclose each and every element of claims 61-79.

Bellotti discloses "[t]he selecting member 164 also includes on a top surface 182 a flow diagram 184 useable to indicate which tubing members are open and which tubing member is clamped shut. This provides a visual indicia of the expected direction of fluid flow to assist the user." (Col. 12, ll. 17-21.)

Bellotti, however, does not disclose "an auxiliary element associated with said valve body . . . said auxiliary element having a surface facing said selector, said surface having predetermined visual representations . . . relating to the paths in which the fluid flow is shut off or permitted between said accesses, wherein different relative positions of said selector with respect to said valve body provide visual access through said aperture to corresponding visual representations of said surface," as recited in independent claim 61. Bellotti does not disclose or suggest an "aperture," nor does it disclose or suggest a "surface having predetermined visual representations . . . wherein different relative positions of said selector with respect to said valve body provide visual access through said aperture to corresponding visual representations of said surface,"

as recited in independent claim 61. Thus, Bellotti does not disclose each and every element of independent claim 61.

For at least the aforementioned reasons, independent claim 61 is allowable over Bellotti. Moreover, new dependent claims 62-79 are allowable over Bellotti at least due to their dependence from allowable independent claim 61.

CONCLUSION

In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: May 23, 2008

By: /Aaron L. Parker/
Aaron L. Parker
Reg. No. 50,785